

COMMISSIONERS APPROVAL

ROKOSCH *JJR*

GRANDSTAFF *CG*

THOMPSON *AT*

CHILCOTT *gc*

DRISCOLL *WD*

Date.....August 6, 2007

Members Present.....Commissioner Jim Rokosch,
Commissioner Carlotta Grandstaff, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Minutes: Glenda Wiles

The Board met for a discussion and decision of airplane parking at the airport and other related airport issues. Present at this meeting was Airport Manager Page Gough, Airport Board Chairman Dave Hedditch, Airport Board Members Carl Fox, Tex Irwin, Judy Stewart and Field Based Operators Mark Fournier & Steve Wolters and numerous citizens.

The Board reviewed a draft letter prepared by Page in regard to parking issues by North Star Aviation. Page presented a letter from Jerry Simpson, hangar owner who was having some issues with parking due to employee parking by North Star Aviation. Jerry was asking for certain parking spaces and asked for enforcement of those spaces by the Airport Manager.

Tex Irwin spoke as an individual and aircraft owner, rather than a Board Member. He stated he moved from Bozeman to Monterey, California. While in Monterey he served as a 13-year Board Member for the Monterey Peninsula Airport. They had 55 employees and two major runways. He dealt with the FAA and Grant assurances. He has traveled across this country in his private aircraft numerous times and he has yet to find one airport that has a taxiway in front of an FBO building. He stated it is ridiculous to call that area (in front of North Star) a 'taxiway'. From the Federal Government code this area does not meet the definition of a taxi way due to the current width. Taxiways have speeds of 25 m.p.h.; and one would not want speeds that fast in front of North Star Aviation. There are different definitions of taxi lanes and taxiways according to the code. Taxi lanes are for movements out to the taxiway and locate lanes are on the edge of an apron. He stated the Commissioners have control over the apron area if the grant assurance monies have run out. He asked if anyone knew when the time frame for appeal on the Fournier settlement was.

Commissioner Rokosch expressed some concerns in regard to safety about the taxi way but reiterated the county is bound by the settlement. He asked Commissioner Chilcott about the agreement stipulation for the Fournier settlement. Greg responded that the area around the apron is for the movement of aircraft. Dave stated he is working with the FAA on this as they need an alternative as the situation is not good right now.

Commissioner Driscoll stated the agreement needs to be enforced, but agreed there are many things that need to be worked out. She asked if anyone 'walked the grounds' before the agreement was made. Page stated the FAA walked the area.

Mark Fournier stated when the parking went in it confined his business (Hamilton Aviation) because it removed two parking areas in the ramp area and one space in the south area. The county had also eliminated a parking space in front of North Star. He stated that eliminated 8 spaces that generated revenue. Mark stated North Star wanted those spaces removed so he would have free aircraft movement in that location. Now, there is free movement down the same lane that North Star utilizes. Mark felt this decision gave benefit to both FBO's according to the FAA's definition of fairness. Mark also noted the settlement was between Hamilton Aviation and the County. It was not a settlement under Part 16, thus the FAA is not part of that agreement.

Commissioner Chilcott asked why Mark cannot come in the north side. Mark stated the door for unloading would be on the wrong side. They (the planes) have to be pulled in facing north. Where they park their jet, they still have the ramp area and three parking spaces.

Bill Stewart stated he sold North Star to Steve in 2002. The ramp is too small for one FBO. He stated the Commissioners have 'gotten us into mud up to our fannies' because they have now allowed another FBO to come in right on top of the other one. Bill stated the Commissioners have included Fournier in all of these discussions and have never included Steve and everything as been laid on top of Steve.

Commissioner Chilcott stated both he and Civil Counsel Alex Beal participated in this settlement conference but he still does not see how part of this ramp is designated as a taxi way. Mark stated it is within Page's adopted parking plan. Page stated the taxiway is not the proper definition for this area. He suggested they use the word 'ramp movement' instead. Dave stated it cannot be a taxi lane because there is not enough room. If they paint a stripe on the lane you must have the width, which is not enough.

Mark stated there must be free movement within this area.

Steve stated he has been at the airport for 12 years. This ramp was constructed during the 1970's. There was no parking prior to that time. When hangars were constructed in 1985, the layout of the ramp was changed. Bill noted those existing parking spots were decommissioned due to those changes. Steve relayed when he purchased his hangar from Bill Stewart in 2002, the previous Airport Manager Warren Woolley indicated this was

simply ramp space. He indicated if this area is changed from ramp space it would affect his business. He noted they could enter from the south and make a 90 degree turn as could Mark Fournier. However, if Mark's planes come through this ramp space it would restrict his business and that would need to be challenged.

Tex Irwin noted the FAA Advisory Circular, under section #5 (parking and tie downs); addresses the layout of an airport. He stated placing the FBOs next to an apron is not a good idea because the space is premium and should be judiciously utilized. Tex stated according to the FAA Circular, the aprons for an FBO should be treated different than transient aircraft.

Steve stated over the past several years they have coordinated the parking spaces and they have all been full. The ramp has been full because there was nowhere to go with them. He stated his business has lost a portion of the ramp and they are being choked down. He also relayed the large planes cannot be easily moved. He has no way to move them due to their size and there is nowhere to go with them. The ramp is limited due to its small size and now with the extra access he has nowhere to park anything.

Bill stated when he started his FBO there was no road, which he put in at his expense. He stated the whole tie down area was insufficient in the 80's and now the Commissioners have piled two FBO's on top of each other creating contention between these two operators. He stated the Commissioners need to alleviate this problem.

Commissioner Rokosch stated he agrees there is limited space and the Commissioners need to find a short and long term resolution, but are now bound by the settlement agreement.

Dave presented some drawings of space which would separate the two businesses by removing the taxi way from one FBO to the other. They could also develop new parking spaces to the south of North Star Aviation and utilize the SEAT Base when it is not being used. Dave also suggested they move the underground fuel tank.

Ron Beye stated the location of the fuel tank is a hazard. He felt there should be a designated fuel farm. Commissioner Chilcott noted the FAA felt the location was fine.

Commissioner Driscoll asked Mark if he wanted the location due to signage. Mark stated the FAA allowed his business to do this because it is a double walled concrete tank.

Commissioner Rokosch stated the Commissioner's dilemma is what the FAA will allow. If the FAA allows the tank at that location, he feels they are bound by that. In regard to additional ramp space and parking, there seems to be advantages of what Dave is proposing. This would allow separation of businesses and parking spaces.

Mark stated the disadvantage would be the location of the parking. North Star's fuel tank on the southern end was a benefit to North Star. If that fuel tank was moved to the open spot north of North Star it would open the ramp area.

Commissioner Rokosch stated they need to look at all of the alternatives. Carl Fox stated there is only one answer as too many problems are created due to this one solution. He stated the traffic flow should be changed.

Mark stated the settlement agreement needs to be honored. He stated he will look at any possibilities but at the same time he will be looking to the advantages and disadvantages to him as an FBOs.

Commissioner Rokosch suggested they have a work session keeping in mind they are bound to the settlement agreement.

Dave Lashley has been flying into Hamilton for 20 years and noted this is a hazardous passage way. He stated North Star has put 'service' on the map for aircraft pilots. He advised the Commissioners if they were concerned they should not give preference to a start up business. The notion that this is a taxiway is not correct. The FBO should not be prohibited by this taxiway.

It was agreed to continue this meeting until 1:00 p.m. this date in order to discuss the FAA close out documents for the Environmental Assessment and PAPI.

In other business the Board met with City of Missoula Financial Officer Dale Bickel, County of Missoula Rural Initiatives Planner Patrick O'Herren, Ravalli County Planner Karen Hughes, County Attorney George Corn, and Internal Auditor Klarryse Murphy, numerous members of the Open Lands Board, members of the Planning Staff, Ravalli County Treasurer Joanne Johnson and Accounting Supervisor Jana Exner. Karen noted Missoula (City and County in a joint effort) has already gone through the process of the Open Lands Bond. They felt they could garner some good ideas from Missoula County in regard to how the bonds program works.

Patrick gave some back ground on how the bonding works. He stated he first alerts the County Commissioners on any projects his office is working on; then notify the press so the public is aware of the project. After the Open Lands Committee votes to send the project forward for funding, they set up a staff and site visit with the Commissioners. The public is always invited to the site visits. The entity that brings the project forward is also on site. Normally that entity is the property owner or Land Trust. The second meeting is a public hearing held by the Commissioners with staff presentation and public comment. Patrick stated usually the Commissioners vote on the project that day because the financial portion is already handled. He noted their Bond Counsel, Chief Administrative Counsel, Chief Financial Officer and sometimes the County Attorney are involved in this meeting.

Commissioner Chilcott asked about the turn around time for the participant to receive funding. Patrick stated it is usually within 60-90 days.

Dale stated they wait until the last possible minute to issue the bonds because from the day the bonds are issued the county will have three years to spend the money, and sometimes these projects take more than 3 years to expend all of the money. The City of Missoula cash flows as many of their projects as they can to avoid any potential problem of exceeding the three years. Thus far they have not had to issue any bonds because they have cash within their fund. Dale also stated the cost of issuing the bonds can become quite expensive due to the administrative fees. He stated if they were to incur the obligation prior to obtaining the bonds, a resolution can be done to reimburse those costs. He advised the Commissioners they need to make sure the project is qualified under the ballot language and secondly, it is important to follow the IRS requirements. The public hearing is the time to make the decision of the merits of purchase. The resolution can be done prior to the hearing; it simply allows the Commissioners to be reimbursed. Fees such as hazmat evaluation; title searches etc. can be done prior to the Commissioners approval. He stated they carry these expenses under an excess fund reserve which the Commissioners could set up expressly for these costs. He stated when they get to a point where the expenditures (sometimes between the city and county) are over the million dollar range, they move forward on the bonds. He stated the fees will normally be 2% of the actual bond. He noted that some smaller bonds can become more expensive. The financial advisor is on a percentage and the balance of the monies is eaten up by attorney fees etc. The City of Missoula utilizes DA Davidson as their financial advisor and they are also the underwriter. They are very helpful. He stated the law does not require a Request for Qualifications. They utilize the law firm of Dorsey and Whitney for their bond counsel.

Open Lands Board Member Phil Connelly asked what the smallest bond issue they ever became involved in. Dale stated if the purchase cost is \$300,000 or less, they should utilize a bank for non taxable loans. And depending upon the ballot language, the administrative costs can be removed.

Commissioner Rokosch asked about Intercap loans. Klarryse stated they can utilize the short term loans through Intercap. Dale stated as long as Ravalli County is incurring debt they can utilize the open lands bond levy to pay for the Intercap loan. The Montana statute allows the Commissioners to utilize a 'debt issuance' but it is important to seek the opinion of the County Attorney first. In regard to the use of Intercap loans the County could use those funds if they expand the terms to 15 years. Or they can utilize the Intercap monies for their gaps in funding.

Phil asked about the typical rate of bonding. Dale stated it depends solely on the market. Their last issue was just over 4%. The market is good right now so the County should come in under 5%. 20-years are a typical length for the bond.

Commissioner Chilcott asked if the applicants or participants are willing to be flexible on the options. Patrick stated with the four projects they recently worked on, the participants have all been flexible. However, the Land Trust has covered the costs and then was reimbursed, so the participants were not waiting for any of their money.

Commissioner Rokosch asked what type of involvement they have had with County Attorney. Patrick stated it is normally Bond Counsel and the Finance Officer. The attorney will review the Resolution to make sure it follows the statute.

John Ormiston asked if bonds can be approved prior to the project. Dale stated the normal procedure is to issue the bonds before the project is approved. That provides the money to do the necessary things, but the IRS only allows you 3 years to spend the money and there are rules on how they can invest the money. It seems like it would be easy to spend the money, but it takes a long time to get the money spent. You would have to send the IRS the difference in the interest rate and you would hire someone to calculate the penalties.

Patrick stated that was an issue for them. They did not want to have money sitting in the bond account. If you have to write checks to the IRS for penalties, the public is not happy.

Commissioner Rokosch asked Dale how the County Treasurer participates. Dale stated the Treasurers' Office has no role nor does the Clerk of Court. Statutorily they might have reports that need to be filed. Klarryse stated if they pre issue the bond monies they would have to go on the tax payers bill for debt service funds. She stated it is important to keep expenses to a minimum, and to utilize qualified vendors such as DA Davidson and Dorsey & Whitney. Klarryse stated Ravalli County does not want to have an issue with the IRS.

Dan (Chair of Open Lands Board) asked what the role of the Open Lands Board would be. They have found some projects they would be interested in but are concerned with the timing and possibly holding the landowners up on their funds. Patrick indicated timing and budgeting is done by the landowner and land trust. They try to fit their projects in the fiscal year funding. Patrick stated their purchases are based on the project rather than the funding. The Commissioners issue is if the projects are good and supported by the open lands language and if they qualify under the IRS. He stated they try to stay away from those timing and funding issues. The Open Lands Committee looks at all the issues; easements, timber harvest etc. The committee does not work on consensus, rather it is pure vote, but the Commissioners receive the full history. Patrick stated the actual process would take longer without the Open Lands Committee as they play an important role in this process. He and his staff provide substantive recommendation to the Commissioners with findings of fact which are supplemented by the Staff Report and verbal report by the Open Lands Committee. Patrick stated all Commissioners and Committee Members visit the site. That is a very important part. He stated they have written mission statements they can share with Ravalli County.

Grant Kier stated this is a complicated real estate transaction. He asked if an incentive can be added for the landowner if they have to sit on their land until it 'shakes up to a project'. Klarryse asked if it is allowable to pay interest payments to the landowner while the project is moving forward. George stated bond counsel should answer those

questions. Dale stated there is a tax issue to the landowner on income. It is hard for the government to pay more than an appraised value so that might cause a problem.

Dale stated if the projects are smaller such as below the \$300,000 mark they actually treat it like an RSID and negotiate directly with a bank for the non tax loans. They utilize bond counsel for this also. The interest rate will be somewhat higher than a bond. George asked if the projects can be 'stacked' until they came up with a million dollar bond. Dale stated you would keep those at that type of a bank loan for payoff; and not to put them under the bond. Dale also stated sometimes they issue bonds in the fall when they have enough projects going at the same time. He advised the Commissioners not to go out and get the bonding and then find the projects. He cautioned them to pay attention to the compliance issue and have it all in place before they do the bonding.

Dan asked if they could move forward with the smaller projects if there are no operating costs. That would allow them to 'learn the ropes'. He also noted there are some projects coming down the pipe and it would 'put our legs under us and give us capital to fund the open lands process.'

Commissioner Rokosch asked if they found the right project, what would be the time frame for obtaining the bonds. Dale stated it can be done in 30 days but to give your self 60 days.

Klarryse suggested they contact the Board of Investment to review the Intercap monies and adopt this into the FY 2008. Go with a million dollars, taking the 15-year pay off which would give the county seed. She felt that would be an easier rate than going through the bank, plus there would be fewer legal issues.

Commissioner Chilcott stated he would rather not be rushed, and felt they could use the Intercap money prior to bonding. Klarryse stated the debt service can be repaid out of the general fund and then paid back from bonds when sold. Dale stated he would still use the mill levy to pay for this and they could use a portion of the bond money for the projects, or at least get the projects started. You cannot issue a mill levy on the Intercap interest rate. You could do a revenue anticipation resolution with the Board of Investment for Intercap monies. Better to issue the bonds than take a loan from Intercap.

The Commissioners thanked Dale and Patrick for their time.

Minutes: Beth Farwell

In other business, the Board met with Clay Dethlefsen of the Streamside Setback Committee (SSC) to discuss interim zoning streamside setback. Clay stated the committee would like to obtain the approval of interim zoning and receive guidance from the Commissioners in order to establish interim zoning. The SSC would like to establish a subcommittee on zoning. Clay also discussed the needs and objectives of the SSC.

Commissioner Grandstaff asked about clarification on the prioritization of the streams. Clay stated the SSC would like guidance on which ones they would like done first.

Commissioner Rokosch stated they should discuss the streams that are not included in the floodplain delineation. Karen replied she asked for some ideas from the Commission where the concern and the conditions are a priority as a starting point for the Streamside Setback Committee.

Clay stated based on working those areas first and developing parameters, it's very possible to extrapolate others on the list. He stated if they could have more guidance as to where to start, they will be able to produce the results the Commissioners want in the time frame required.

Clay stated the SSC would look at the exceptions to the rules once they are established. And it is important they be clear on the intent. They also want to be cautious so they do not inflict undo hardship on the property owners, such as cost. Clay stated the SSC is responsible to create a reasonable setback for generalization.

Commissioner Rokosch replied the current membership of the Streamside Setback Committee has already implemented starting points. This would be an interim measure not to become permanent. The emergency situation would be to the respect of designated floodplains and areas of stream that would be comprehensive setback areas.

Commissioner Chilcott stated he supports the Streamside Setback Committee as long as it's decisions are based on scientific information. He does not feel comfortable issuing an emergency situation to support regulations. He feels they either have the emergency defined or implement the regulations based on science.

Commissioner Grandstaff stated she does not agree with Commissioner Chilcott. She has heard of a citizen who feels it is an emergency on her property and it needs to be addressed. Commissioner Chilcott replied he would like to have scientific basis before declaring an emergency situation.

Commissioner Driscoll stated the reaction to this whole issue is that people are building right on the edge of the streams. Her feeling is this is a gentle way of saying, "please don't do that", and the Commissioners have the responsibility to look further into it.

Commissioner Chilcott stated he would like to see criteria developed before responding. He noted if they are talking about a public health and safety concern; the riparian areas are already covered by DNRC regulations. He feels they are looking at the criteria on the streams for water quantity and quality.

Commissioner Rokosch stated the floodplain delineation is not known, and until it is known, the Commissioners do not have the basis to set any priorities.

Ben Hillicoss stated if the Board would give the SSC some guidance it would help. A group needs to decide what defines an emergency. The Commissioners could do some kind of a map and mark the streams that this applies to and doesn't. A landowner needs to know if their property is covered or not.

Further discussion followed regarding the impact of the overall effort.

Clay stated when he received the letter from the Commissioners he went out and asked questions of the Streamside Setback Committee. He took a look at the need to conservatively ensure a cross section of the membership. His point earlier today was that they may not need anymore than 5 people to serve on the Interim Zoning Committee. He did not want to misinform anyone, but rather to alert every one of the actual staff requirements. He stated they still need to have a cross section of representation. However this committee still needs some guidance. Commissioner Chilcott replied if this issue is so important they need to declare an emergency, then the Commissioners should dedicate the proper resources for that emergency.

Commissioner Rokosch stated he concurs with Commissioner Chilcott's statement.

Kielian stated this is a large issue to address. She felt they should have a subcommittee to develop the initial effort and then review it by the entire Streamside Setback Committee before it's brought forth to the Commissioners. Commissioner Chilcott stated sometimes decisions are made based on faulty assumptions. He doesn't want assumptions but rather scientific fact.

John Horat asked if the Commission is mostly concerned about structures for the setback. Commissioner Grandstaff replied yes, that is her understanding. Commissioner Rokosch replied the concern is not only for the structures but agricultural operations. Commissioner Driscoll replied her concern is for the structures.

Clay stated if they are able to proceed, they will take into consideration the contractors, fertilizing (use of herbicides), irrigation ditches, and other areas mentioned today. Commissioner Driscoll stated the full Board will be able to figure that out.

Karen Hughes stated she would like to go back to the purpose of this presentation. She would like to keep in mind the use of Interim Zoning as it is meant as 'a tool not a club'. She would like the Commissioners to think about the role of the planning staff and the proposed concept draft. She asked the Commissioners to think about the priorities of the planning staff in regard to their other commitments. She is not sure where the clerical support for this endeavor would come from. Her department is confined and restricted in that area. She would also like to have the Interim Zoning reviewed as to how to operate without permits. She stated it would be not only a legal issue but hard to enforce.

Commissioner Grandstaff asked Karen to submit her concerns in writing.

Commissioner Driscoll asked if anyone has asked the builders to stop building so close to the waters edge. She noted there is ongoing building which should be stopped until these setback regulations are in effect. Currently some builders are trying to 'outrun the curve'. Barbara Kitchens replied it is not only the builders of subdivisions but also individuals.

Kielian stated they have a short period of time to look into zoning. These are not just subdivisions but also individual homes. She stated Commissioner Chilcott has some very good points. And it is important to have some kind of enforcement. We should have another meeting in two or three weeks for the Commissioners' input.

Clay stated he would like to apologize to Karen for this short timeline and the need for staff but they felt it was important to address due to the Commissioner's letter to the committee. He stated he would not ask for this assistance if the committee did not feel it was necessary.

Al stated there is a question that has not been answered. That question is if they should establish setbacks for this interim?

Commissioner Rokosch replied they need to consider Public Health, Public Safety and natural resource issues. He recommended speaking to Civil Counsel.

John stated when you get into the water, you need a scientific aspect. Brief discussion followed about John's comment.

Michael Howell stated science is biology, and Chris Clancy from the Fish, Wildlife and Land has done presentations where biology is affected by building. Commissioner Grandstaff replied science can be challenged. Again, discussion followed.

Clay stated regardless of what we say is the reason for interim action it will form a small nucleus. The SSC needs clarity of what is to be focused upon.

Ben stated he believes that it is the responsibility of the Streamside Setback Committee to come up with the priorities and then present those priorities back to the Commissioners. The Commissioners agreed with Ben's suggestion. The meeting was adjourned.

In other business, Administrative Assistant Glenda Wiles brought forth the Request for Reimbursement #8 for the Environmental Assessment and PAPI, which included the close out documentation and final request for FAA reimbursement. (Project AIP 3-30-0037-005-2003). This is the final reimbursement which goes above and beyond the grant amount as approved by FAA Administrator John Styba. **Commissioner Chilcott made a motion to sign this Request. Commissioner Grandstaff seconded the motion and all voted "aye".**

Glenda also brought forth a request from Northwestern Energy allowing them to proceed with Phase 1 and Phase 2 of the MDOT reroute project at the Stevensville Wye. This

request is due to the need of their usage of certain equipment needed for this construction project that is prohibited under the Open Burning Resolution No. 2174, requiring them to seek Commissioner Approval. **Commissioner Grandstaff made a motion to approve this request. Commissioner Driscoll seconded the motion and all voted "aye".**

The Board met for a fire update from the Forest Service. Forest Supervisor David Bull gave an update for the Tin Cup fire. It started about 4:00 p.m. and it is determined to be human caused. The fire has jumped to Bunkhouse Creek and has now compromised the line. Initial reports estimated it has burned 174 acres. They are looking at a Stage One alert for evacuation for both Tin Cup and Bunkhouse Creek where the pavement ends. Snowy Mountain Lane has mandatory evacuation at this point.

David stated this fire has tapped out his resources. He has requested reinforcements that should be arriving later today. His concern is the alert for the high wind gusts this afternoon. They are looking at the utilization of heavy tankers in order to keep the fire from moving east.

David stated Rombo Mountain fire has doubled its size since yesterday. They are going to expand the closure area. He stated the strategy is to try to keep the fire from the north and west side. One 20 person crew and 2 tankers were removed from the Rombo Mountain fire to fight the Tin Cup fire.

Office of Emergency Services Coordinator Ron Nicholas requested the Board authorize the evacuation delegation plan for Rombo Mountain fire. Commissioner Rokosch read the plan to the Board. Discussion followed.

Commissioner Chilcott made a motion to adopt the Rombo Mountain Fire Evacuation Emergency Preparation Plan granting the incident commander the ability to issue commands as needed when a trigger point has been reached. Commissioner Grandstaff seconded the motion, all vote 'aye'.